IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2333 OF 2005

Hirabai Gopinath Patil since deceased
through her heirs and L.Rs.
Gopinath Dinkar Patil and ors. ..Appellants.

V/s.

The Special Land Acquistion Officer
Metro Centre No.3 Panvel Dist.Raigad. ..Respondent.

Mr.G.H.Keluskar for appellants.

Mr.K.K.Tated, AGP for Respondent.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 21, 2006.

P.C. :

1. Heard counsel for the parties.

2. Admit.

3. Mr.K.K.Tated, AGP waives notice for respondent.

4. As short question is involved, appeal is taken up for hearing forthwith, by consent.

5. The appellants/claimants made reference for enhancement of compensation amount under section 28A(3) of the Land Acquisition Act, 1894. The

present proceedings pertain to Survey No.387/2 of Village Owe, Taluka Panvel, District-Raigad, which was acquired by the Special Land Acquisition Officer(SLAO) admeasuring 81 Ares. The reference before the lower Court was on the assertion that the compensation awarded by the lower Court will have to be redetermined being insufficient. The lower Court relying on the award passed by the District Court being Exh.39 in LAR No.50/1987 which pertains to another plot in same village Owe enhanced compensation in respect of the suit property to the extent of Rs.12/- per sq. meter. Before the lower court, it is the respondent, themselves relying on the said award persuaded the lower court to grant compensation consistent with the award in respect of the acquisition proceedings of the neighbouring land in village Owe. That view is the subject matter of the present appeal.

6. In the present appeal, the grievance of the appellants is that the appellants were entitled for compensation to the extent of Rs.15/- per sq.meter and which claim was made on the basis of evidence of valuer Smt.Manjiri Joshi. Indeed, the evidence of Manjiri Joshi has come on record. The court below has analysed the said evidence and rightly observed

that she has deposed in cross-examination that some of the land reference pertaining to village Owe were decided by the lower court enhancing compensation between the Rs.10/- to Rs.12/- per sq.meter. The court below accordingly, has granted enhanced compensation to the appellants at the rate of Rs.12/- per sq.meter. No fault can be found with that view taken by the court below which is supported by the evidence on record. In fact, before this court, once again it is the respondent who have placed on record decision of our High Court in **First Appeal No.875 of 1985** and group of 30 matters decided by the Division Bench of this court on 16th March, 2000. In paragraph-10 of the said decision, the Division Bench has considered the group of appeals relating to 17 lands under acquisition situated at village Owe. After considering the entire materials the Division Bench has taken the view that on examining the location of the suit land it is found that they were quite away from the Highway, railway station, Gaothan as well as Industrial Estate and thus, granted compensation at the rate of Rs.13/- per sq.meter only. Even if the appellants were to be given benefit of that decision maximum market price that can be offered to the appellants in respect of the suit land will not exceed Rs.13/- per sq.meter by any

standard.

7. In the circumstances, although the appellants have not been able to persuade to set aside the opinion expressed by the lower court in the impugned Judgment, however, on the fair attitude adopted by the respondent in bringing to my notice the decision of the Division Bench of this court whereunder compensation in respect of the land situated at Village Owe has been determined at the rate of Rs.13/- per sq.meter, I would partly allow this appeal by enhancing compensation amount in respect of suit land at the rate of Rs.13/- per sq.meter in stead of Rs.12/- per sq.meter granted by the lower court. To that extent this appeal succeeds.

8. Needless to observe that all other benefits referred to in the impugned order such as solatium and other additional interest will enure to the appellants, commensurate with the rate of compensation determined at Rs.13/- per sq.meter in respect of the suit land. Award be drawn up accordingly. No order as to costs.